



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street West
Charleston, WV 25313

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 17, 2006

Case Name: [REDACTED]

Dear Ms. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 12, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for a Transfer Tub Bench.

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Medicaid is based on current policy and regulations. Some of these regulations state as follows:

When documentation submitted fails to justify medical necessity for DME or medical supplies, the UMC may request additional information, and/or deny the request for lack of medical necessity. (Bureau for Medical Services West Virginia Provider Manuals, Chapter 500 Covered Services, Limitations and Exclusions, Volume 6 – DME/Medical Supplies, Section 505 Prior Authorization).

The information submitted at your hearing revealed: The medical documentation did not support the need for a Transfer Tub Bench.

It is the decision of the State Hearings Officer to uphold the action of the Department in this particular matter.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Ms. Patricia Woods, RN – BMS Nurse Administrator

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

██████████
Claimant,

v. **Action Number: 06-BOR-863**

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 17, 2006 for ██████████. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on April 12, 2006 on a timely appeal filed February 22, 2006.

It should be noted here that the claimant is currently receiving Medicaid benefits. A pre-hearing conference was not held between the Bureau for Medical Services and Ms. ██████████ prior to the fair hearing. Ms. ██████████ did not have legal representation on behalf of her daughter, ██████████.

II. PROGRAM PURPOSE:

The Program entitled Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

██████████ Mother/Power of Attorney for ██████████
Patricia Woods, RN/Nurse Administrator – Bureau for Medical Services
Virginia Evans, Claims Representative – Bureau for Medical Services
Dr. Sandra Joseph, MD/Medical Director – Bureau for Medical Services
Evelyn Whidby, Appeals Coordinator – Bureau for Medical Services (Observing)

Presiding at the Hearing was Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is: Did Ms. ██████████ submit proper medical documentation for a Transfer Tub Bench?

V. APPLICABLE POLICY:

Bureau for Medical Services West Virginia Provider Manuals, Chapter 500 Covered Services, Limitations and Exclusions, Volume 6 – DME/Medical Supplies, Section 501 *Definitions*; and Section 505 *Prior Authorization* (5/1/05).

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Information received from ██████████, MD and ██████████
- D-2 Results of medical review by West Virginia Medical Institute (WVMI)
- D-3 Durable Medical Equipment/Medical Supply Manual, Chapter 500 Section 505 – Prior Authorization

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Bureau for Medical Services West Virginia Provider Manuals, Chapter 500 Covered Services, Limitations and Exclusions, Volume 6 – DME/Medical Supplies, Section 501 *Definitions* states in part:

Certificate of Medical Necessity (CMN) - A two-fold document completed by a prescribing practitioner and the DME provider. The CMN is utilized to document the member's medical necessity for DME/medical supplies requiring prior authorization.

2) Bureau for Medical Services West Virginia Provider Manuals, Chapter 500 Covered Services, Limitations and Exclusions, Volume 6 – DME/Medical Supplies, Section 505 prior Authorization (5/1/05) (Exhibit D-3):

Codes requiring PA must be reviewed and approved by the UMC (Utilization Management Contractor - WVMI), before service is rendered. These specific services are identified in Attachment I of this manual. The exception to this rule is HCPCS Code E0619, Infant Apnea Monitor with recording feature. The “Initial Infant Apnea Monitor” CMN must be submitted to WVMI seven (7) calendar days [REDACTED] hospital discharge. If the monitor is medically necessary beyond the initial approval, the “Request for Extension” CMN must be submitted to WVMI prior to the end of the initial authorization. These CMN’s are included in Attachment IV. Unless otherwise, specified, WV Medicaid follows Medicare DMERC, Region B, medical necessity criteria for covered services. All required documentation noted in Section 504 must be attached to a completed CMN and mailed or faxed to:

West Virginia Medical Institute (WVMI)
3001 Chesterfield Place
Charleston, WV 25304
Fax Number: 304-346-8185
Attn: DME/Medical Supply Review

When documentation submitted fails to justify medical necessity for DME or medical supplies, the UMC may request additional information, and/or deny the request for lack of medical necessity. Information must be member specific and not copied from the DMERC Medicare Manual. Retroactive or verbal authorization is not accepted. The issuance of an authorization from the UMC does not guarantee payment.

NOTE: Prior authorization is required from Rational Drug Therapy Program (RDTP) for home IV services. However, if equipment and supplies are required, a completed CMN and a copy of the final determination (RDTP) must be submitted to the UMC for assignment of a PA number. This number may be assigned before or after the IV therapy services are provided. Information from RDTP must contain language which clearly states that the member requires such services or supplies. RDTP may be contacted at 1-800-847- 3859 or by fax to 1-800-531-7787.

3) Ms. [REDACTED] Mother and Power of Attorney for [REDACTED] is contesting the denial of a Transfer Tub Bench by the Bureau for Medical Services. The Bureau for Medical Services based their denial on conflicting medical documentation.

4) [REDACTED], M.D. wrote a prescription for a “Bath Chair” on June 20, 2005. The prescription in addition to an undated letter from the DME Provider (Rehab Dimensions of WV), were attached to a Certificate of Medical Necessity (CME) signed and dated by [REDACTED] M.D., on August 25, 2005. The undated letter from the DME Provider referred to [REDACTED] as a 14 year old female, who is unable to ambulate functional distances (<25ft.). (Exhibit D-1).

5) According to the WVMI DME Report dated September 15, 2005, the request for a Transfer Bench with Suction Cups was “Questioned BUT APPROVED,” pending a BMS Review. The “Report” listed [REDACTED]’s age as 20 with a diagnosis of Stickler’s Syndrome, who is able to ambulate short distances, about 25 feet.

6) According to Dr. Joseph's testimony, WVMI has a two tiered appeals process. When there are additional questions or discrepancies, she has the final decision. Dr. Joseph reviewed the medical documentation and denied the request based upon the following conflicting information: (1) The CME requested a "Transfer Shower Bench and Suction Cups" while [REDACTED] physician wrote the prescription for a "Bath Chair." The Transfer Shower Bench and Bath Chair are two different types of equipment. This is confirmed by the pricing chart attached to Exhibit D-1; (2) The undated letter from the DME Provider referred to [REDACTED] as a 14 year old female, who is unable to ambulate short distances. The WVMI DME Report lists [REDACTED]'s age as 20 and can ambulate short distances, about 25 feet and finally; (3) Dr. Joseph expressed concern over the appearance of a conflict of interest between the physical therapist who wrote the undated letter for [REDACTED], while being employed by the same DME Provider

7) The WVMI issued a denial letter to [REDACTED] LLC on November 21, 2005 (Exhibit D-2). The letter stated in part:

Your request was forwarded to BMS for a policy/coverage determination. After due consideration, BMS has denied the following Item(s) due to benefit limitation(s): This is in reference to your request for a transfer tub bench. The WV Medicaid Medical Director felt that the documentation provided did not support medical necessity for this piece of equipment as there wasn't any documentation that the patient has limitations transferring or bathing.

The letter was signed by [REDACTED], M.D., Director of Medicaid Review Process – West Virginia Medical Institute.

8) Ms. [REDACTED]'s request for a fair hearing was received by the Department on December 13, 2006.

9) The testimony and medical documentation presented during the hearing did not support the need for a Transfer Tub Bench. Ms. [REDACTED] was encouraged by the BMS Hearing Representatives to submit a more accurate report.

VIII. CONCLUSIONS OF LAW:

1) Bureau for Medical Services West Virginia Provider Manuals, Chapter 500 Covered Services, Limitations and Exclusions, Volume 6 – DME/Medical Supplies, Section 505 Prior Authorization states in part:

When documentation submitted fails to justify medical necessity for DME or medical supplies, the UMC may request additional information, and/or deny the request for lack of medical necessity.

2) The conflicting medical documentation submitted on behalf of [REDACTED] did not support the need for a Transfer Tub Bench.

IX. DECISION:

It is the decision of this State Hearing Officer to uphold the Department's action in this particular matter

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of April, 2006.

**Ray B. Woods, Jr., M.L.S.
State Hearing Officer**